

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

ROBERT L. MITCHELL,)	
)	
Plaintiff)	
)	Case 1:10-0105
v.)	Judge Campbell/Brown
)	
DAMON HINIGER, et al.,)	
)	
Defendants)	

O R D E R

A telephone conference was held with the parties in this matter on July 14, 2011. Presently pending is the Plaintiff's motion for injunctive relief (Docket Entry 44). The Magistrate Judge spent a good deal of time discussing with the parties the status of the medical reports provided the Court so far in this matter. Plaintiff has pointed out in the response that the documents purportedly from the Vanderbilt Surgery Clinic (Docket Entry 53-1, p. 11) does not show on its face that it refers to him.

In the records the Magistrate Judge has reviewed it does not appear that the handling of the Plaintiff's case has been done with any efficiency. Having the inmate go to a examination or consult without critical records is a waste of time and money for everyone. However, the law is clear that mere negligence does not rise to a Constitutional violation and there is a high burden to secure an injunction directing a institution to undertake specific medical procedures. As a rule the Court is not in the best position to do this. It would be particularly helpful for the

Magistrate Judge in preparing this report and recommendation if it was clear what records Dr. Neimat actually reviewed. It appears that his notes (Docket Entry 53-1, p. 7) refer to the possibility of obtaining lumbar flexation/extension films to evaluate for additional pathology. There would seem to be some disconnect between this report and the subsequent report previously mentioned (Docket Entry 53-1, p. 11).

The Magistrate Judge would like to prepare a report and recommendation on this motion as soon as practicable. A critical part of preparing a report and recommendation is whether there have been actual recommendations for surgery or not.

The Magistrate Judge had hoped that the Plaintiff would provide the HIPAA releases so that both parties could receive the Plaintiff's medical records and the doctors would not be saddled with providing records to the parties at separate times. The District Judge has now affirmed the Magistrate Judge's decision. If the Plaintiff will promptly sign the release the medical records can be produced to both sides. In case the Plaintiff does not now have the proper forms the Defendant should send him new ones at once.

It is so **ORDERED**.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge